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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUEHGB/AMEMBASSY BAGHDAD PRIORITY 1129

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RUEKJCS/SECDEF WASHDC//USDP:PDUSDP/ISA:EUR/ISA:NESA/DSCA// PRIORITY

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C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 000313

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TAGS: PGOV PREL MOPS PTER TU

SUBJECT: TURKEY: SOLDIERS CAPTURED BY PKK ON TRIAL

REF: 07 ANKARA 2601

Classified By: Pol-Mil Counselor Carl Siebentritt, Reasons 1.4 (b) and (d).

11. (SBU) SUMMARY: The trial of the eight Turkish soldiers captured and subsequently released by the PKK in October 2007 began on February 1 in the Jandarma Command Military Court in Van. Following the hearing, the soldiers were released and will return to court April 25. The trial has been below the radar screen due to an initial court-ordered media ban and a subsequent military "request" for no media speculation on the case. Observers supportive of the military believe the Turkish military court is handling the trial professionally. Others view these soldiers as scapegoats to cover up the failures of their commanders and vulnerabilities in Turkey's conscript-dependent military. End Summary

The Case

12. (C) The eight soldiers were captured on October 21, during a large-scale PKK ambush involving over two hundred terrorist fighters against Turkish units located in the Daglica region in southeast Turkey (reftel). Twelve Turkish soldiers were killed during the attack, and many others were wounded. The captured soldiers were taken by the PKK to northern Iraq for two weeks and were released on November 4 to MNF-I before being returned to Turkey. According to Sadi Cayci, a retired military prosecutor familiar with the case, the soldiers were debriefed by military intelligence officials after returning to Turkey. In the course of the debriefing, the military determined that the soldiers may have violated military laws and regulations. The military subsequently launched both a disciplinary review and a criminal investigation. The soldiers were placed under arrest and charged on November 11 with "acting against the requirements of the military," "disobeying orders," and "escape." In addition, Ramazan Yuce, the only soldier among the eight of Kurdish origin, was charged with "contributing to terrorist propaganda." If convicted, Yuce could face a life sentence.

A Pro-Military Perspective

13. (C) Those sympathetic to the military, such as Cayci, argue that the PKK sought to capture the soldiers in order to force the Turkish government to recognize it as a legitimate interlocutor. The fact that the soldiers were released to

MNF-I was a PKK propaganda success, according to Cayci, as the capture and release of the soldiers gave the PKK international attention and served to show that the PKK is magnanimous to its captives and observes the laws of war. Cayci believes another motive for the capture of the soldiers may have been to draw the Turkish military into northern Iraq.

¶4. (C) Cayci also suggested that the ruling Justice and Development Party (AKP) has used its media proxies to undercut the military by publishing rumors related to the case that might cause embarrassment to the military. As an example, he cited media coverage of claims made by Yuce's attorney against the brigade's commanding officer. According to the lawyer, the commanding officer failed to deploy soldiers in the surrounding hills despite receiving intelligence that PKK elements were planning an assault. Yuce's lawyer also alleged that two positions to man artillery and grenade launchers were vacant during the attack because no one was certified to use them. The commander was also accused of refusing a request to deploy a Cobra helicopter from a nearby unit to protect the threatened troops.

¶5. (C) Stressing that the military was very transparent during the entire incident, Cayci pointed to the fact that the TGS had posted on its website within 24 hours of the incident that the military had "lost contact" with the eight soldiers. He also noted that the military followed appropriate procedures, and that the soldiers were not charged until a subsequent investigation determined that they should face prosecution.

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¶6. (C) Cayci did call into question the independence of the judiciary, saying that the degree of independence enjoyed by a military judge is constrained by the views of his commanding officer. In Cayci's view, judicial independence in the military court system has deteriorated in the last ten years. He doubted the trial will result in anything but a guilty verdict for those charged, noting that some within the military and in media have expressed the view that the soldiers should have fought to the death and that their capture disgraced the Turkish military. While he did not support this view, Cayci said that this may be behind the military's decision to prosecute the soldiers. More broadly, Cayci acknowledged that the military needs to consider revamping the military court system to allow for genuine judicial independence so that decisions in military courts would not be called into question.

Cowards or Scapegoats?

¶7. (C) Professor Mithat Sancar, a law professor at Ankara University and ethnic Kurd, highlighted the fact that the capture took place at a time when there was overwhelming public pressure to conduct a cross-border operation. He said the attack embarrassed the military, which feared that the attack could undermine public confidence in the military's ability to take the fight to the PKK. Against this backdrop, Sancar speculated that the military wanted to make an example of the captured soldiers. By blaming these soldiers, the military could avoid dealing with the larger challenge of addressing shortcomings in the training provided to its conscript-based army, which makes up the bulk of its fighting force in the southeast. The military would also be able to deflect criticisms against its failure to properly vet troops deployed to the southeast, and properly equip and protect its soldiers fighting in the region.

The Military and the Media

¶8. (C) Sancar also criticized the military's role in pushing

for a media ban on the case. The Van military court that is hearing the case had issued in November a ban on media coverage of the case in order to preserve the integrity of the investigation. The Council of Ministers later issued a media ban decree, only to be overturned by a Council of State decision on January 4 that lifted the media ban. The military subsequently issued a press statement on January 18 requesting the media not to speculate on the case, arguing that the case should be decided in the court of law, not public opinion. Sancar noted that the military has used such tactics in the past to discourage media from covering certain issues, and has "blacklisted" journalists who provide what the military considers negative coverage on news stories.

A Kurdish Angle

¶ 19. (C) Sancar said that Kurdish language websites have drawn attention to the fact that, of the eight, only Yuce was of Kurdish origin and only he was charged with the most severe crime. Sancar said Kurdish commentators in Turkey said this was despite the fact that all eight soldiers provided statements to ROJ TV, a Danish-based TV station sympathetic to the PKK. Defending Yuce's statement to ROJ TV, which has been viewed as overly sympathetic to the PKK, Sancar said many ethnic Kurdish commentators believe Yuce's statement was not unusual given the circumstances of his captivity, and that in the end, when offered to join the PKK or to be taken to a third country, Yuce requested to return to Turkey. Sancar held little hope that the soldiers will avoid conviction or that anyone more senior will be charged for dereliction of duty. If Yuce receives a life sentence, it will be seen by some in the Kurdish community in Turkey as one more example of how Kurds cannot receive fair treatment in Turkey, according to Sancar.

Comment

¶ 10. (C) Other opinion-makers, such as Middle Eastern Technical University professors Huseyin Bagci and Mustafa

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Kibaroglu, support Sancar's view that the soldiers are scapegoats for military inadequacies and that their chain of command is unlikely to be held responsible. Over the past year, press reports have highlighted the dangers of using poorly-trained conscripts in counter-terrorism operations in the southeast, prompting the military to promise to begin replacing those conscripts with better-trained, longer-serving non-commissioned officers.

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